

REMARKS/ARGUMENTS

Following entrance of the present Amendment, claims have been amended. Thus, claims 1-19 are presented for consideration. In the Office Action, the Examiner rejected the claims under 35 U.S.C. § 103 relying upon U.S. Patent No. 5,923,319 to Bishop as the primary reference.

Applicant respectfully traverses the Examiner's rejections to the claims as follows. Although the Examiner makes several common references to previous patents, the novel features and unique characteristics of applicant's invention require additional consideration in Applicant's opinion. Applicant contends that the Examiner's hypothetical combination of references including any and all of the references cited by the Examiner fail to render Applicant's invention obvious under 35 U.S.C. §103 as claimed.

The combinations of the cited references fail to supply the deficiencies in the resulting hypothetical combination advanced by the Examiner in light of the invention as now claimed, especially regarding Applicant's amended independent claims 1, 8 and 14 that more specifically claim Applicant's novel structure of a unitary, seamless lens filter. None of the references cited by the Examiner show, teach or suggest a structure even remotely similar to Applicant's seamless lens filter that prevents water penetration during high water pressure exposure. All of the art cited by the Examiner depends upon a formation of a seal between multiple disparate lens components.

Claim 1 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Bishop and U.S. Patent 6,414,728 to Faris in view of Bishop's teaching of a lens cover construction for a touch system device and Faris's overall teaching of a image display system. It is

Appl. No. 10/086,582
Amendment dated 8/5/04
Response to Office Action dated 5/5/2004

improper to combine references without a teaching, motivation, or suggestion found in the prior art for combining the references. As noted by the substantial authority covered in MPEP § 2145, § 2143.01, and the decisions of the Federal Circuit, it is improper to use the present application as a means for suggestion for combining the prior art references. No cited references showing a motivation for a 'skill in the art' combination or any reference with a 'means of suggestion' has been cited for combining any of these patents. "Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found in the references themselves or in the knowledge generally available to one of ordinary skill in the art." MPEP § 2143.01 (*citing In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988)). Nowhere does the examiner particularly identify any suggestion, teaching, or motivation to combine the prior art references, nor does the examiner make specific findings concerning the identification of the relevant art, the level of ordinary skill in the art, the nature of the problem to be solved, or other findings to support a proper obviousness analysis. See In Re Dembiczak, 50 U.S.P.Q. 1614, 1618 (Fed. Cir. 1999). Because it is improper to use the present application as a means for suggestion for combining the prior art, applicant respectfully requests reconsideration of the obviousness rejection of claim 1.

Additionally, the combination of Bishop and Faris are an improper reference for a §103 rejection as the combination does not teach the Applicant's invention. Indeed, Bishop the combination of Bishop and Faris teaches away from Applicant's invention. Bishop teaches a lens cover construction by layering the frame (11) of lens cover and the glass (13) creating the cover within a mold for subsequent application of polyurethane injection to form a seal, or bezel

(15), between the glass cover and the lens cover frame. (Col. 4, Lines 25-28). As depicted in Figures 3A and 3B, Bishop teaches the formation of a lens cover through the combination of parts glued together, specifically parts labeled by reference numbers 13, the glass, and 15, the bezel. Applicant, in contrast teaches the use of a unitary, seamless lens filter as a single piece that is then captivated by the lens cover frame. Applicant's seamless design is clearly depicted in Figure 7 of Applicant's application with reference number 60 denoting the unitary lens filter. As illustrated in Figure 7 of Applicant's application, part 60 is of single piece construction that, in relation to the teaching of Bishop, corresponds to parts 13 and 15. This distinction of a seamless lens filter allows Applicant's invention to provide a substantially water-proof environment for a display apparatus as a unitary design piece does not allow for water penetration like bonded pieces. Applicant's invention does not fail when exposed to high pressure water as is encountered in many industrial situations and has replaced many bonded devices. Additionally, Applicant's invention, in contrast to Bishop, captivates the IR transmitters (38) within the lens filter (60). Bishop teaches the placement of the IR transmitters behind the lens cover. This modification over the prior teaching allows Applicant's invention to better protect the IR transmitters from water penetration.

As stated in Applicant's application, Applicant's invention addresses the need in the field to replace previous constructions formed with multiple disparate pieces as the seals between those pieces do not withstand extreme water pressure. Previous applications with seals do not provide a consistently liquid tight environment. Indeed, the teaching of Bishop was addressed in Applicant's disclosure as insufficient because the varying thermal expansion and contraction rates for various components in industrial situations cause the seal of Bishop to warp and distort

Appl. No. 10/086,582
Amendment dated 8/5/04
Response to Office Action dated 5/5/2004

or crack. These changes cause the seal of Bishop to be impossible to maintain. In contrast, the unitary structure of Applicant's invention is especially well adapted to withstand the extreme water pressures or other harsh environments as the seamless design does not provide a seal warp or crack. The addition of Faris with Bishop does not create a combination that teaches Applicant's invention. Therefore, Applicant respectfully requests reconsideration and withdrawal of the §103(a) rejection of Claim 1.

As Claims 2 through 7 depend upon Claim 1, the combination of Bishop and Faris additionally fail to teach Applicant's invention as disclosed in those claims. Therefore, Applicant respectfully requests reconsideration and withdrawal of the §103(a) rejection of Claims 2 through 7.

Claim 8 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Bishop and Faris in view of Bishop's teaching of a lens cover construction for a touch system device and Faris's overall teaching of a image display system. It is improper to combine references without a teaching, motivation, or suggestion found in the prior art for combining the references. As noted by the substantial authority covered in MPEP § 2145, § 2143.01, and the decisions of the Federal Circuit, it is improper to use the present application as a means for suggestion for combining the prior art references. No cited references showing a motivation for a 'skill in the art' combination or any reference with a 'means of suggestion' has been cited for combining any of these patents. "Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found in the references themselves or in the knowledge generally available to one of ordinary skill in the art." MPEP § 2143.01 (*citing In*

Appl. No. 10/086,582
Amendment dated 8/5/04
Response to Office Action dated 5/5/2004

re Fine, 837 F.2d 1071 (Fed. Cir. 1988). Nowhere does the examiner particularly identify any suggestion, teaching, or motivation to combine the prior art references, nor does the examiner make specific findings concerning the identification of the relevant art, the level of ordinary skill in the art, the nature of the problem to be solved, or other findings to support a proper obviousness analysis. See In Re Dembiczak, 50 U.S.P.Q. 1614, 1618 (Fed. Cir. 1999). Because it is improper to use the present application as a means for suggestion for combining the prior art, Applicant respectfully requests reconsideration of the obviousness rejection of claim 8. Additionally, the combination of Bishop and Faris are an improper reference for a §103 rejection as the combination does not teach the Applicant's invention. Indeed, Bishop the combination of Bishop and Faris teaches away from Applicant's invention.

Bishop teaches a lens cover construction by layering the frame (11) of lens cover and the glass (13) creating the cover within a mold for subsequent application of polyurethane injection to form a seal, or bezel (15), between the glass cover and the lens cover frame. (Col. 4, Lines 25-28). As depicted in Figures 3A and 3B, Bishop teaches the formation of a lens cover through the combination of parts glued together, specifically parts labeled by reference numbers 13, the glass, and 15, the bezel. Applicant, in contrast teaches the use of a unitary, seamless lens filter as a single piece that is then captivated by the lens cover frame. Applicant's seamless design is clearly depicted in Figure 7 of Applicant's application with reference number 60 denoting the unitary lens filter. As illustrated in Figure 7 of Applicant's application, part 60 is of single piece construction that, in relation to the teaching of Bishop, corresponds to parts 13 and 15. This distinction of a seamless lens filter allows Applicant's invention to provide a substantially water-proof environment for a display apparatus as a unitary design piece does not allow for water

Appl. No. 10/086,582
Amendment dated 8/5/04
Response to Office Action dated 5/5/2004

penetration like bonded pieces. Applicant's invention does not fail when exposed to high pressure water as is encountered in many industrial situations and has replaced many bonded devices. Additionally, Applicant's invention, in contrast to Bishop, captivates the IR transmitters (38) within the lens filter (60). Bishop teaches the placement of the IR transmitters behind the lens cover. This modification over the prior teaching allows Applicant's invention to better protect the IR transmitters from water penetration.

As stated in Applicant's application, Applicant's invention addresses the need in the field to replace previous constructions formed with multiple disparate pieces as the seals between those pieces do not withstand extreme water pressure. Previous applications with seals do not provide a consistently liquid tight environment. Indeed, the teaching of Bishop was addressed in Applicant's disclosure as insufficient because the varying thermal expansion and contraction rates for various components in industrial situations cause the seal of Bishop to warp and distort or crack. These changes cause the seal of Bishop to be impossible to maintain. In contrast, the unitary structure of Applicant's invention is especially well adapted to withstand the extreme water pressures or other harsh environments as the seamless design does not provide a seal warp or crack. The addition of Faris with Bishop does not create a combination that teaches Applicant's invention. Therefore, Applicant respectfully requests reconsideration and withdrawal of the §103(a) rejection of Claim 8.

As Claims 9 through 13 depend upon Claim 8, the combination of Bishop and Faris additionally fail to teach Applicant's invention as disclosed in those claims. Therefore, Applicant respectfully requests reconsideration and withdrawal of the §103(a) rejection of Claims 9 through 13.

Appl. No. 10/086,582
Amendment dated 8/5/04
Response to Office Action dated 5/5/2004

Claim 14 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Bishop and Faris in view of Bishop's teaching of a lens cover construction for a touch system device and Faris's overall teaching of a image display system. It is improper to combine references without a teaching, motivation, or suggestion found in the prior art for combining the references. As noted by the substantial authority covered in MPEP § 2145, § 2143.01, and the decisions of the Federal Circuit, it is improper to use the present application as a means for suggestion for combining the prior art references. No cited references showing a motivation for a 'skill in the art' combination or any reference with a 'means of suggestion' has been cited for combining any of these patents. "Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found in the references themselves or in the knowledge generally available to one of ordinary skill in the art." MPEP § 2143.01 (*citing In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988)). Nowhere does the examiner particularly identify any suggestion, teaching, or motivation to combine the prior art references, nor does the examiner make specific findings concerning the identification of the relevant art, the level of ordinary skill in the art, the nature of the problem to be solved, or other findings to support a proper obviousness analysis. See *In Re Dembiczak*, 50 U.S.P.Q. 1614, 1618 (Fed. Cir. 1999). Because it is improper to use the present application as a means for suggestion for combining the prior art, Applicant respectfully requests reconsideration of the obviousness rejection of claim 14.

Additionally, the combination of Bishop and Faris are an improper reference for a §103 rejection as the combination does not teach the Applicant's invention. Indeed, Bishop the

combination of Bishop and Faris teaches away from Applicant's invention. Bishop teaches a lens cover construction by layering the frame (11) of lens cover and the glass (13) creating the cover within a mold for subsequent application of polyurethane injection to form a seal, or bezel (15), between the glass cover and the lens cover frame. (Col. 4, Lines 25-28). As depicted in Figures 3A and 3B, Bishop teaches the formation of a lens cover through the combination of parts glued together, specifically parts labeled by reference numbers 13, the glass, and 15, the bezel. Applicant, in contrast teaches the use of a unitary, seamless lens filter as a single piece that is then captivated by the lens cover frame. Applicant's seamless design is clearly depicted in Figure 7 of Applicant's application with reference number 60 denoting the unitary lens filter. As illustrated in Figure 7 of Applicant's application, part 60 is of single piece construction that, in relation to the teaching of Bishop, corresponds to parts 13 and 15. This distinction of a seamless lens filter allows Applicant's invention to provide a substantially water-proof environment for a display apparatus as a unitary design piece does not allow for water penetration like bonded pieces. Applicant's invention does not fail when exposed to high pressure water as is encountered in many industrial situations and has replaced many bonded devices. Additionally, Applicant's invention, in contrast to Bishop, captivates the IR transmitters (38) within the lens filter (60). Bishop teaches the placement of the IR transmitters behind the lens cover. This modification over the prior teaching allows Applicant's invention to better protect the IR transmitters from water penetration.

As stated in Applicant's application, Applicant's invention addresses the need in the field to replace previous constructions formed with multiple disparate pieces as the seals between those pieces do not withstand extreme water pressure. Previous applications with seals do not

Appl. No. 10/086,582
Amendment dated 8/5/04
Response to Office Action dated 5/5/2004

provide a consistently liquid tight environment. Indeed, the teaching of Bishop was addressed in Applicant's disclosure as insufficient because the varying thermal expansion and contraction rates for various components in industrial situations cause the seal of Bishop to warp and distort or crack. These changes cause the seal of Bishop to be impossible to maintain. In contrast, the unitary structure of Applicant's invention is especially well adapted to withstand the extreme water pressures or other harsh environments as the seamless design does not provide a seal warp or crack. The addition of Faris with Bishop does not create a combination that teaches Applicant's invention. Therefore, Applicant respectfully requests reconsideration and withdrawal of the §103(a) rejection of Claim 14.

As Claims 15 through 19 depend upon Claim 14, the combination of Bishop and Faris additionally fail to teach Applicant's invention as disclosed in those claims. Therefore, Applicant respectfully requests reconsideration and withdrawal of the §103(a) rejection of Claims 15 through 19.

Applicant respectfully advances that this amendatory language overcomes the §103 rejections to claims 1, 8 and 14 and respectfully requests the removal of the rejections thereto. Since dependant claims 2-7, 9-13 and 15-19 were also rejected for this basis over the same art, which is addressed by the foregoing, Applicant respectfully requests the removal of the rejections to these claims as well.

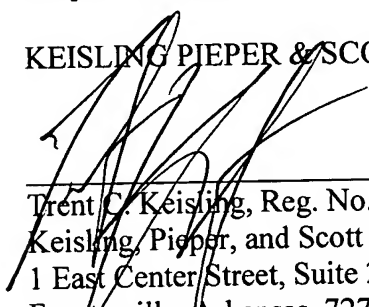
In light of the above, Applicant respectfully believes the present application to be in condition for allowance. An early and favorable action to that effect is earnestly solicited.

Appl. No. 10/086,582
Amendment dated 8/5/04
Response to Office Action dated 5/5/2004

Should there be any matter of form or language which stands in the way of examination of the present application, the undersigned hereby respectfully requests a telephone conference to resolve such issues.

Respectfully submitted,

KEISLING PIEPER & SCOTT PLC



Trent C. Keisling, Reg. No. 36,565
Keisling, Pieper, and Scott PLC
1 East Center Street, Suite 217
Fayetteville, Arkansas 72701
(479) 251-0800
Attorneys for Applicant

Date: 8/5/2004